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Supreme Court, U.S.
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No. 01-1054

In The

Supreme Court of the United States

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY; FRANKLIN E. WHITE, MTA Chief Executive Officer in his Individual and Official Capacities; JOSEPH NMI DREW, MTA Acting Chief Executive Officer in his Individual and Official Capacities,

vs.

Petitioners,

LABOR/COMMUNITY STRATEGY CENTER; BUS RIDERS UNION; SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE OF GREATER LOS ANGELES COUNTY; KOREAN IMMIGRANT WORKERS ADVOCATES; MARIA GUARDADO; RICARDO ZELADA; NOEMI ZELADA; PEARL DANIELS; HENRY FREDERICK RAMEY, JR.; O. HOWARD WATTS; WILLIAM TUT HAYES; VICTOR DIBAS,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

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ARGUMENT

Introduction. Respondents' opposition ignores the extensive evidence introduced in 1999 in the district court. Instead, they choose to rely on evidence produced in the district court in 1994 and on the Special Master's findings and conclusions based on declarations and arguments presented in 1998. The evidence before the Special Master was fragmentary, and it was seriously out of date when the matter was heard by the district court in 1999. In 1999, petitioners presented substantial uncontradicted evidence about the meaning of the technical term "load factor targets" and the intention of the parties in using that terminology in the settlement agreement. At the same time petitioners presented extensive evidence about the financial inability of the MTA to comply with the Special Master's "Order," while also complying with the federal and state statutory mandates.

I. THE LOWER COURTS DID NOT CONSTRUE THE CONSENT DECREE AS A CONTRACT

Respondents' contention that the lower courts construed the Consent Decree as a contract is not supported by the language used by the courts below nor by their conduct. In 1999, petitioners presented substantial uncontradicted evidence in the district court that the technical term "load factor targets" was intended to incorporate the meaning of the term as it is understood in the bus transportation industry. Contrary to the lower courts, a load factor target is not "a mathematically precise method of measuring bus overcrowding." (App. A at 14a.)

United States v. ITT Continental Baking Co., 420 U.S. 223, 238 (1975) explained how consent decrees are to be interpreted:

> Since a consent decree or order is to be construed for enforcement purposes basically as a contract, reliance upon certain aids to construction is proper, as with any other contract. Such aids include the circumstances surrounding the formation of the consent order, *any technical meaning words used may have had to the parties*, and any other documents expressly incorporated in the decree. Such reliance does not in any way depart from the "four corners" rule of *Armour*. [Emphasis added.][1]

A standard principle of contract interpretation is that technical words in a contract are to be interpreted as usually understood by persons in the profession or business to which they relate, unless those words were truly used in a different sense. *E.g.*, Restatement (Second) of Contracts § 202(3)(b) (1981).[2]

Construing a consent decree as a contract requires ascertaining the intention of the parties. Despite petitioners' uncontradicted evidence about the meaning of the technical terminology and the parties' intent in using it in the Consent Decree, the district court made no finding on the point. The failure of the district court to

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[1] *United States v. Armour & Co.*, 402 U.S. 673, 91 S. Ct. 1752, 29 L. Ed. 2d 256 (1971).

[2] Accord Cal. Civ. Code § 1645: "Technical words are to be interpreted as usually understood by persons in the profession or business to which they relate, unless clearly used in a different sense."

make any finding on the intent issue supports the conclusion that the court did not construe the Consent Decree as contract, but rather as a judgment reached without the parties' consent. The court of appeals accepted the district court's conclusion.

II. THE LOWER COURTS' EXCESSIVELY INTRUSIVE ORDERS VIOLATE THIS COURT'S FEDERALISM PRINCIPLES

Respondents' arguments reveal their serious misunderstanding about the impact of federalism constraints imposed by this Court on lower federal courts. (R. Br. at 18-24.)

A deficiency, if any, in a state agency's plan to comply with the terms of a consent decree does not empower the federal courts to impose extremely intrusive mandatory injunctions on the agency. Even to remedy a proved constitutional violation, federal courts are required to respect the fiscal constraints and statutory duties imposed on state agencies. *E.g., Bell v. Wolfish*, 441 U.S. 520, 547, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979).

Respondents are simply wrong in arguing that the lower courts respected the MTA's funding limitations and its need to meet other statutory obligations. (R. Br. at 20.) Respondents again ignore the extensive evidence presented on those points to the district court. They rely instead on the Special Master's conclusions.

Respondents' argument that the Special Master's mandatory injunction gave the MTA an escape hatch is disingenuous. (R. Br. at 23-24.) All the Special Master said

was that a late arrival of mandated buses would not be deemed to violate his "Order" if the delay was due to circumstances beyond the MTA's control. Nothing in the Special Master's "Order" relieved the MTA of the obligations he imposed upon it to buy hundreds more buses than the MTA's own remediation plan specified. The MTA did not have the financial resources to operate the Special Master's expanded bus fleet.[3]

None of respondents' arguments justified the lower courts in disregarding the principles underlying cooperative federalism. None justified the federal courts in issuing mandatory injunctions that intrude deeply into the MTA's management of its public transportation systems. None justified the lower courts in disrupting the MTA's access to State and federal funding that is the lifeblood of the Agency.

The lower courts granted more intrusive injunctive relief against the MTA than a federal court is permitted to do in remedying a proved constitutional violation. Respondents' arguments ignore *Rizzo v. Goode*, 423 U.S. 362, 96 S. Ct. 598, 46 L. Ed. 2d 561 (1976). Considerations of federalism required reversal of the district court's remedial order revising the internal operations of a state

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[3] Throughout their brief, respondents assume that the Special Master had the equitable powers of a federal court. He does not. They argue that the MTA was somehow estopped from arguing the point because years earlier a former MTA lawyer asked the Special Master for a temporary restraining order. The Special Master issued – but promptly rescinded – a TRO because he recognized that he was not empowered to issue it. Petitioners gained no benefit and respondents suffered no detriment from the lawyer's error. No estoppel existed.

or local agency in absence of extraordinary circumstances. No extraordinary circumstances exist here to justify the gross intrusion of the federal courts into the MTA's financing resources and its management of its extremely complicated public transportation systems in the guise of enforcing the Consent Decree. *See, e.g., Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 16, 91 S. Ct. 1267, 28 L. Ed. 2d 554 (1971); *Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 389, 112 S. Ct. 748, 116 L. Ed. 2d 867 (1992).

Unless certiorari is granted and the decision below is overturned, the MTA will be crippled thereby endangering its service to millions of users of its Los Angeles County transportation systems.

Dated: March 1, 2002

Respectfully submitted,

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